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In re Application of :
SAMMUT et al. :
Application No.: 10/579,119 : DECISION
PCT No.: PCT/US2004/037947 :
Int. Filing Date: 12 November 2004 :
Priority Date: 12 November 2003 :
Attorney Docket No.: SAMMUT-10964 :
For: APPARATUS AND METHOD FOR :
CALCULATING AIMING POINT INFORMATION :

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 09 October 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 12 November 2004, applicants filed international application PCT/US2004/037947, which designated the United States and claimed a priority date of 12 November 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 26 May 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 May 2006.

On 10 May 2006, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 12 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required.

On 19 June 2007, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, a petition/fee for a three-month extension of time, the surcharge under 37 CFR 1.492(h), copies of letters sent to non-signing inventor Dickinson Buell, copies of United States Postal Service Certified Mail Return Receipts, and a copy of the declaration of inventors sent to Mr. Buell.

On 06 July 2007, a decision was mailed dismissing applicants' petition under 37 CFR

1.47(a) without prejudice. Specifically, it was noted that the declaration of inventors sent to Mr. Buell for signing was insufficient because it did not list all the inventors and that the executed declaration of inventors filed 19 June 2007 was insufficient because it did not list all the inventors.

On 09 October 2007, applicants filed the instant renewed petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a new declaration of inventors executed by Mr. Sammut and Mr. Chao.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As noted in the decision mailed 06 July 2007, items (1) and (3) have been met.

Items (2) and (4) have now been met as well. As to item (2), although the declaration of inventors sent to Mr. Buell for signing did not list all the inventors, it is clear that Mr. Buell understands exactly what he is being asked to sign. MPEP § 409.03(d) states in part:

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers.

CONCLUSION

For the reasons set forth above, applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **09 October 2007**.

/Daniel Stemmer/

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Dear Mr. Buell:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

/Daniel Stemmer/

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